

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Alphonso McDuffy,  
Plaintiff,  
v.  
Tow Mate Towing LLC, et al.,  
Defendants.

No. CV-22-00304-PHX-ASB  
**ORDER**

This matter was assigned to Magistrate Judge Bachus. (Doc. 36). On July 21, 2023, the Magistrate Judge filed a Report and Recommendation with this Court.<sup>1</sup> (Doc. 41). To date, no objections have been filed.

**STANDARD OF REVIEW**

The Court “may accept, reject, or modify, in whole or in part, the findings or

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<sup>1</sup> This case is assigned to a Magistrate Judge. However, not all parties have consented to the jurisdiction of the Magistrate Judge. Thus, the matter is before this Court pursuant to General Order 21-25, which states in relevant part:

When a United States Magistrate Judge to whom a civil action has been assigned pursuant to Local Rule 3.7(a)(1) considers dismissal to be appropriate but lacks the jurisdiction to do so under 28 U.S.C. § 636(c)(1) due to incomplete status of election by the parties to consent or not consent to the full authority of the Magistrate Judge,

**IT IS ORDERED** that the Magistrate Judge will prepare a Report and Recommendation for the Chief United States District Judge or designee.

**IT IS FURTHER ORDERED** designating the following District Court Judges to review and, if deemed suitable, to sign the order of dismissal on my behalf:

Phoenix/Prescott: Senior United States District Judge Stephen M. McNamee

1 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C); see Baxter v.  
 2 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). Parties have fourteen days from the service  
 3 of a copy of the Magistrate’s recommendation within which to file specific written  
 4 objections to the Court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72. Failure to object to a  
 5 Magistrate Judge’s recommendation relieves the Court of conducting *de novo* review of  
 6 the Magistrate Judge’s factual findings and waives all objections to those findings on  
 7 appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a  
 8 Magistrate Judge’s conclusion “is a factor to be weighed in considering the propriety of  
 9 finding waiver of an issue on appeal.” Id.

### 10 DISCUSSION

11 Having reviewed the Report and Recommendation of the Magistrate Judge, and no  
 12 Objections having been made by any party thereto, the Court hereby incorporates and  
 13 adopts the Magistrate Judge’s Report and Recommendation.

### 14 CONCLUSION

15 Accordingly, for the reasons set forth,

16 **IT IS ORDERED adopting** the Report and Recommendation of the Magistrate  
 17 Judge. (Doc. 41).

18 **IT IS FURTHER ORDERED** that the Order and Judgment filed June 28, 2023  
 19 (Docs. 38 and 39) be **vacated**, as they were entered in error.

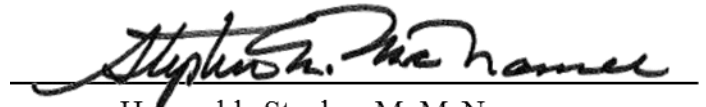
20 **IT IS FURTHER ORDERED granting** Plaintiff’s Motion for Default Judgment  
 21 Against Defendants. (Doc. 37).

22 **IT IS FURTHER ORDERED** that Plaintiff be awarded statutory damages in the  
 23 amount of \$8,340.00, plus post-judgment interest, to Alphonso McDuffy. The full amount  
 24 of \$8,340.00 is awarded against Tow Mate Towing, LLC, and \$7,724.40 (of the \$8,340.00)  
 25 is awarded against Defendants Tow Mate Towing, LLC, Michael Butler, and Jane Doe  
 26 Butler, jointly and severally.

27 **IT IS FURTHER ORDERED directing** the Clerk of the Court to enter judgement  
 28 accordingly.

1           **IT IS FURTHER ORDERED** that any response/objection to Plaintiff's Motion for  
2     Attorney's Fees (Doc. 40) be filed no later than 14 days from the date of this Order, or the  
3     motion will be considered unopposed.

4           Dated this 8th day of August, 2023.

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8           Honorable Stephen M. McNamee  
9           Senior United States District Judge  
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